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12 Attorneys for Defendants Hansen Natural
13 Corporation, Rodney C. Sacks, Thomas J.
Kelly and Hilton H. Schlosberg

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, EASTERN DIVISION**

MARCELO CUNHA, Individually and
on Behalf of All Others Similarly
Situated.

Plaintiff.

VS.

HANSEN NATURAL CORPORATION,
RODNEY C. SACKS and HILTON H.
SCHLOSSBERG.

Defendants.

CASE NO. EDCV08-1249 SGL (JCx)
[Consolidated with EDCV08-1278 SGL
(JCx)]

Notice of Motion and Motion to Dismiss the Consolidated Class Action Complaint

Date: March 15, 2010
Time: 10:00 a.m.
Crtrm.: Hon. Stephen G. Larson

1 **TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:**

2 Please take notice that on March 15, 2010 at 10:00 a.m. in Courtroom 1 of the
3 above-captioned Court, located at 3470 Twelfth Street, Riverside, CA 92501,
4 Defendants Hansen Natural Corporation (“Hansen”), Rodney C. Sacks, Thomas J.
5 Kelly and Hilton H. Schlosberg will, and hereby do, move pursuant to Rules 12(b)(6)
6 and 9(b) of the Federal Rules of Civil Procedure, as well as the Private Securities
7 Litigation Reform Act, for an order dismissing the Consolidated Class Action
8 Complaint in its entirety.

9 This motion is based on the ground that the Complaint fails to allege facts upon
10 which relief can be granted. Specifically, the Complaint fails to allege: (a) false or
11 misleading statements or omissions; (b) scienter; or (c) loss causation, with the
12 requisite particularity required by law.

13 This motion is based upon this Notice of Motion, the attached Memorandum of
14 Points and Authorities, the Request for Judicial Notice filed contemporaneously
15 herewith, the entire record herein, and such further briefing and argument as the Court
16 may hear.

17 This motion is made following a meeting of counsel in compliance with Local
18 Rule 7-3, which occurred on September 30, 2009. At that meeting, the parties were not

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1 able to agree on a resolution of the matters raised in this motion or on the filing of an
2 amended pleading that would address the issues raised in this motion.

4 | DATED: November 16, 2009

Mark T. Drooks
Thomas V. Reichert
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NESSIM, DROOKS & LINCENBERG, P.C.

Martin L. Perschitz
Gary Stein
William M. Uptegrove
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By: /s/Thomas V. Reichert

Thomas V. Reichert

Attorneys for Defendants Hansen Natural Corporation, Rodney C. Sacks, Thomas J. Kelly and Hilton H. Schlosberg